

## Message Text

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PAGE 01 STATE 013271  
ORIGIN EUR-12

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OES/OFA-MR. BUSBY

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O 200027Z JAN 77  
FM SECSTATE WASHDC  
TO AMEMBASSY OTTAWA IMMEDIATE

C O N F I D E N T I A L STATE 013271

FOR THE AMBASSADOR

E.O. 11652:GDS

TAGS: SENV, PBOR, EFIS, CA

SUBJECT: MARITIME BOUNDARY AND FISHERY NEGOTIATIONS  
REF: OTTAWA 200

1. YOUR EFFORTS TO REDUCE TO SPECIFIC AGREEMENT THE  
ELEMENTS FOR PROCEEDING WITH OUR BOUNDARY AND RESOURCE  
NEGOTIATIONS, AS REFLECTED IN THE DRAFT "AGREED POINTS"  
CONTAINED REFTEL, HAVE MADE SIGNIFICANT PROGRESS. IN  
GENERAL, DEPARTMENT FINDS YOUR DRAFT TEXT ACCEPTABLE AND  
VERY HELPFUL. SPECIFIC COMMENTS ON DRAFT ARE SET OUT PARA  
4 BELOW.

2. THE QUESTIONS THAT MUST NOW BE ADDRESSED ARE HOW TO  
FORMALIZE THE AREAS OF AGREEMENT YOU HAVE DEFINED, WHETHER  
THE DOCUMENT WILL BE PUBLIC OR CONFIDENTIAL, AND HOW TO  
FACTOR IN CONSULTATIONS WITH CONGRESS AND AFFECTED  
INTERESTS ON A COMMITMENT TO THIRD-PARTY SETTLEMENT. FYI--  
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YOU SHOULD BE AWARE THAT THE ULTIMATE AGREEMENT ON SUBMIS-  
SION TO THIRD-PARTY SETTLEMENT WOULD PROBABLY REQUIRE THE  
ADVICE AND CONSENT OF THE SENATE. IN THIS CASE THE EXECU-  
TIVE BRANCH WOULD NOT HAVE AUTHORITY TO MAKE A FIRM COMMIT-  
MENT WHICH IS NOT SUBJECT TO CONSTITUTIONAL PROCEDURES. WE  
WILL HAVE TO DETERMINE WHETHER WE REGARD THE "AGREED POINTS"  
YOU ARE NEGOTIATING AS A LEGAL DOCUMENT WHICH WILL HAVE TO

BE SUBMITTED TO CONGRESS UNDER THE CASE ACT. WE DO NOT WANT TO RAISE THESE LEGAL POINTS WITH GOC AT THIS POINT. FOR THIS REASON WE HAVE SUGGESTED QUALIFYING LANGUAGE BELOW FOR ADDITION TO PARA (4) OF DRAFT TEXT. IN SUGGESTING THIS LANGUAGE YOU SHOULD SAY ONLY THAT WE BELIEVE QUALIFICATION IS NECESSARY IN THE EVENT THAT WE REACH AGREEMENT THAT WILL REQUIRE LEGISLATIVE ACTION ON ONE SIDE OR THE OTHER--END FYI.

3. RE QUESTION OF CONFIDENTIALITY, WE WISH YOU TO EXPLORE WITH CANADIANS POSSIBILITY OF MAKING THESE UNDERSTANDINGS PUBLIC AT AN APPROPRIATE TIME. FYI--WE TEND TO FAVOR THIS APPROACH BUT HAVE NOT YET REACHED FIRM POSITION--END FYI.

4. SPECIFIC COMMENTS ON DRAFT AND RESPONSES TO YOUR REQUEST FOR CLARIFICATION FOLLOW:

-- PARA (1) ACCEPTABLE AS IS.

-- PARA (2) WE AGREE WITH YOUR SUGGESTION TO ACCEPT PHRASEOLOGY INCLUDED IF DOCUMENT OTHERWISE SATISFACTORY; REMAINDER OF PARA ACCEPTABLE.

-- CONCUR PARA (3), AND COULD ACCEPT SUBSTITUTE PHRASE FOR "DISCLAIMER" SUCH AS "A NON-PREJUDICE CLAUSE" (PARA 6 REFTEL).

-- CONCUR PARA (4) WITH ADDITION OF FOLLOWING PHRASE AT CONFIDENTIAL

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THE END OF THE SENTENCE: "IN ACCORDANCE WITH THE CONSTITUTIONAL PROCESSES OF THE TWO COUNTRIES". (SEE PARA 2 ABOVE).

-- DELETE PARA (5). WE BELIEVE SERIOUS SUBSTANTIVE NEGOTIATION EFFORT MUST BE CARRIED OUT BEFORE WE CONSIDER TERMS OF ADJUDICATION IN ANTICIPATION OF FAILURE OF SUBSTANTIVE TALKS. THUS WE BELIEVE TIMING ON BOUNDARY TALKS SHOULD BE GOVERNED BY PARA (7) OF DRAFT.

-- PARA (6), LANGUAGE PROPOSED IS ACCEPTABLE AS IS. ALTHOUGH WE DO NOT THINK IT IS NECESSARY, WE COULD ALSO ACCEPT INCLUSION OF "IN CONJUNCTION" CONCEPT AS DISCUSSED PARA 8 REFTEL IF GOC INSISTS.

-- CONCUR IN PARA (7).

-- RE PARA (8) WE CAN ACCEPT FORMALIZATION "COOPERATIVE ARRANGEMENTS", BUT COULD NOT CONCUR IN ANY RE-PHRASING WHICH MIGHT RELATE THIS TERM MORE SPECIFICALLY TO MANAGE-

MENT.  
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## Message Attributes

**Automatic Decaptioning:** X  
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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** INSTRUCTIONS, POLICIES, FISHING AGREEMENTS, FISHING LIMITS  
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**Disposition Approved on Date:**  
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**Disposition Comment:** 25 YEAR REVIEW  
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**Original Handling Restrictions:** n/a  
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**TAGS:** SENV, PBOR, EFIS, CA, US  
**To:** OTTAWA  
**Type:** TE  
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**Review Markings:**  
Margaret P. Grafeld  
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